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10/525,750

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Alexander C. Riseman

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EXAMINER

AMELUNXEN, BARBARA J

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/525,750	<b>Applicant(s)</b> RISEMAN ET AL.	
	<b>Examiner</b> B. Joan Amelunxen	<b>Art Unit</b> 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) 20-32 and 35-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Status of Claims*

1. In response to Examiner's Requirement for Restriction/Election of US Application No. 10/525,750, Applicant's election of Claims 1-19 and 33-34 in the reply filed on August 1, 2008 was acknowledged in a First Office Action mailed on October 6, 2008. Today, we respond to Applicants arguments submitted on March 15, 2010.

2. In the present Application #10,525,750, Claims 1-19 and 33-34 are pending, and were not amended, as presented on 10/08/2009, which was as follows:

- Independent Claims 1, 17, 18, and 33-34 were currently amended.
- Dependent Claims 2-16, and 19 have been previously presented,
- While dependent Claims 20-32 and 35-42 were cancelled
- Overall, **Claims 1-19 and 33-34** are being considered below, in

response to the Arguments presented on March 15, 2010.

***Remarks to Amendments/Arguments***

3. Applicants' request for a re-examination filed on March 15, 2010 has been fully considered and the amendments and remarks have been re-examined. However, the Examiner respectfully has to state that they are not all persuasive.

4. **Regarding Applicants' Drawings, particularly, Fig. 5**, Applicants submitted a more formal version of **Fig. 5**, thus the objection is withdrawn.

5. **Regarding Applicant's Remarks, as to the 35 U.S.C. 103(a) rejections of amended Claims 1-19 and 33-34, Applicants argue that:**

(i) Gilbert et al. (US 2003/0088501, hereinafter referred to as "Gilbert"), in view of Brian T. Dawson (US 2002/0042765, hereinafter referred to as "Dawson"), and further in view of David Gershon (US 2005/0027634, hereinafter referred to as "Gershon") and/or

(ii) Gilbert et al. (US 2003/0088501, hereinafter referred to as "Gilbert"), in view of Brian T. Dawson (US 2002/0042765, hereinafter referred to as "Dawson"), in view of David Gershon (US 2005/0027634, hereinafter referred to as "Gershon"), and further in view of Silverman et al (US 5,136,501, hereinafter referred to as "Silverman") and/or

(iii) Gilbert et al. (US 2003/0088501, hereinafter referred to as “Gilbert”), in view of Brian T. Dawson (US 2002/0042765, hereinafter referred to as “Dawson”), in view of David Gershon (US 2005/0027634, hereinafter referred to as “Gershon”), in view of Silverman et al (US 5,136,501, hereinafter referred to as “Silverman”), and in further view of Togher et al. (US 6,014,627, hereinafter referred to as “Togher”) do not teach several features of the invention, such as in the following amended claims:

(a) **Applicants argue that regarding Claims 1, 17, 33, and 34 (1<sup>st</sup> limitation), the Examiner relied on part of a reference that in fact was non-existent.**

Applicants are correct in this argument. The cited reference in question, which was Gershon, does not have a **Fig. 15**. Nor does that prior art have any **Figs. 14-16**. Applicants conclude with a request for the issuance of a new and non-final Office Action (see Remarks, Page 3).

Initially, and without examining the prior office action that had been filed, the Examiner seriously considered the issuance of a new and non-final Office Action. However, after careful perusal of the limitation in question, the Examiner noted that she had utilized two (2) citations: Dawson (US 2002/0042765) and Gershon (US 2005/0027634). The Examiner, incorrectly quoted Gershon, for which she apologizes<sup>1</sup>. However, the Examiner did quote Dawson correctly and Dawson, can stand on its own, teaching that

limitation. Therefore, the part quoted incorrectly in the prior office action (disclosing Gershon's teachings), is now simply being struck out in the present office action, as totally unnecessary. Therefore, Dawson could, and still does, on its own, disclose the limitation in question. This can be seen from the table below.

Prior Office Action filed on 12/14/2009	Present Office Action Filed today
<p>• <u>Gilbert</u> does not specifically disclose: A receiver configured to receive best price bid and offer rates for traded transactions in the instrument (see <u>Gilbert</u>: [¶¶ 0008, 0054-0055]);</p> <p>However,</p> <p><u>Dawson</u> states that the “receiving means may be arranged to receive from at least one source samples of trading prices offered in <b>actual orders</b>, in addition to prices quoted by other contributors”. (See <u>Dawson</u>: [¶ 0024], emphasis added). <u>Dawson</u> further states that “[p]rices derived from <b>binding offers</b> in an automated trading system are inherently more authoritative than non binding quotes provided by various information provider” (see <u>Dawson</u>: [¶ 0026], emphasis added).</p> <p>Additionally, <del><u>Gershon</u> also teaches in step 212 of Fig. 15 that when a current best offer price is</del></p>	<p>• <u>Gilbert</u> does not specifically disclose: A receiver configured to receive best price bid and offer rates for traded transactions in the instrument (see <u>Gilbert</u>: [¶¶ 0008, 0054-0055]);</p> <p>However, <u>Dawson</u> does disclose: A receiver configured to receive best price bid and offer rates for traded transactions in the instrument</p> <p>(see <u>Dawson</u> who states that the “receiving means may be arranged to receive from at least one source samples of trading prices offered in <b>actual orders</b>, in addition to prices quoted by other contributors”. (See <u>Dawson</u>: [¶ 0024], emphasis added). <u>Dawson</u> further states that “[p]rices derived from <b>binding offers</b> in an automated trading system are inherently more authoritative than non binding quotes provided by various information provider” (see <u>Dawson</u>: [¶ 0026] emphasis added, &amp; Claim 3).</p>

<sup>1</sup> For the records, the Examiner was actually quoting, Steve Leibowitz (US Pub. 2005/0228741), and this publication was ultimately not used at all.

<p><del>cancelled, the new offer price becomes best offer price and when the current best bid price is cancelled, the new best bid price is a bid price less than the new offer price (see <u>Gershon: Figs. 14-16</u>; [¶¶ 0097-0119]).</del></p> <p>It would have been obvious to a person of ordinary skill in the art to use the traded transactions in the <u>Gilbert</u> system, in view of <u>Dawson's</u> teaching that binding offers, which essentially are completed transactions, are more authoritative than transaction quotes; and</p>	<p>It would have been obvious to a person of ordinary skill in the art to use the traded transactions in the <u>Gilbert</u> system, in view of <u>Dawson's</u> teaching that binding offers, which essentially are completed transactions, are more authoritative than transaction quotes; and</p>
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Furthermore, as no additional citations had been misquoted, the Examiner finds no reason to make this a new and non-final Office Action.

(b) **Applicants argue that neither Gilbert (US 2003/0088501) nor Dawson (US 2002/0042765) teach: Paraphrased Claims 1, 17, 18, 33, and 34 (2<sup>nd</sup> limitation) (See Remarks, page 4):**

***“ indicative rates ”***

Applicants state that Gilbert merely describes best bids and offers in the general market that have prices that meet predetermined criteria (see Gilbert: [¶ 0010]), while Dawson merely produces an actual price that is available in the market. Applicants conclude that indicative prices are not actual prices to be traded.

The Examiner disagrees partially with Applicants' arguments. Dawson indeed teaches about actual prices, but Dawson also teaches

about calculated bid and offer prices (see Dawson: [¶¶ 0270, 0274, 0462-0467]. In fact, Dawson teaches: “*prices and quoted prices according to different criteria. . . . Said validation criteria may be such as to permit substitution by trading price information provided that it is within certain tolerance limits*” [¶ 0027] (See also Abstract; [¶¶ 0020, 0023, 0027-0030, 0032, 0046, 0122, 0124, 0131, 0158, 0327, 0334, 0429

However, Dawson was not utilized to teach this particular limitation, as Gilbert and Gershon were found more useful to explain the using of the adjusted traded bids/offers, and discarding those that had high fluctuations, in order to obtain a greater or equal spread than the minimum spread. Therefore, this particular argument, regarding Dawson, should be moot, as Gilbert and Gershon were used, as can be seen below.

Notwithstanding the above, the Examiner would like to go now to the Specification, in order to find out how the Specification defines “**indicative rates**”, and we find that the application states:

Broadly, the **indicative rates** are derived from best bid and offer rates from the market by defining a minimum indicative rates spread between bid and offer prices and adjusting the best price rates to maintain a spread greater or equal to the defined minimum indicative rates spread and greater than the best price spread. (see Specification, Page 2, lines 13-18)

Preferably the derivation of indicative bid and offer rates comprises setting the **indicative rate** bid and offer prices to the received best bid and offer prices for completed transactions, and alternately adding an amount to the indicative offer rates and subtracting an amount from the indicative bid rates until the spread between the indicative bid and offer rates is greater than or equal to the predefined



minimum indicative rates spread and greater than the spread between the best bid and offer prices. (see Specification, Page 3 lines 3-11)

“...the invention provides a method of processing ...trades of a **fungible instrument**, comprising the steps of: receiving best price bid and offer rates for transactions in the instrument; and filtering received best price bid and offer rates to remove high frequency fluctuations in the received rates to obtain indicative bid and offer rates, the **indicative rates being adjusted** only to maintain a predetermined minimum spread.

This aspect of the invention also resides in a system for processing deal information relating to trades of a fungible instrument, comprising: the processing module comprising: a filter for filtering received best price bid and offer rates to remove high frequency fluctuations in the received rates to obtain indicative bid and offer rates, and an **indicative rates adjuster** for adjusting the indicative rates only to maintain a predetermined minimum spread” (see Specification, Page 4, lines 10-29)

Thus, from the above, we can summarize that the “**indicative rates**” are obtained from the best bid/offer rates which are simply obtained from the minimum rate spread between bid/offer prices, in order to then **adjust** those best price rates so that a spread greater or equal is obtained.

As stated in the previous Office Action, Gilbert teaches in paragraphs [¶¶ 0007-0008] that:

“...This market cell may display a wide spectrum of prices. That is, the market cell may display several prices that deviate from the market price. The prices are typically displayed as a stack. The best bid price (i.e., highest price at which a trader is willing to buy an item) and best offer price (i.e., lowest price a trader is willing to sell an item) are listed at the top of a bid stack and an offer stack, respectively.

There may be several participants associated with the best bid and/or best offer. That is, several traders may have placed bids at or near to the best bid price and several traders may have place offers at or near to the best offer price. The **“market price” as defined herein, constitutes prices that represent the best**

**bid(s) and best offer(s).** For example, if the bid price is 6.50 and the offer price is 6.40 at a given or predetermined volume, then the market price is 6.50 bid, 6.40 offer, or 6.45 mid. Therefore, **the best bids and offers, as defined for this invention, have prices relatively close to the market price.**

Thus, Gilbert uses prices relatively close to the market price, the market price being defined the best bid/offer price<sup>2</sup>. Aren't Gilbert's "*prices close to the market price*" the same as the present invention's "adjusted price" or "*indicative rate*"?

Additionally, Gilbert uses predetermined criteria to select bids and offers that will be accepted into the inside market [¶ 0010]. Gilbert does not use actual market prices but rather uses values that are "similar with respect to the general market, except that only bid and offer prices that improve on the general market price will be accepted for this inside market session" [¶ 0010].

(c) Applicants argue that Gilbert (US 2003/0088501) further does not: suggest (See Remarks, page 5):

***"...calculate an indicative price..."***

However, this argument is moot, as nowhere in the claims can similar language be found.

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<sup>2</sup> Please see further explanations on this particular topic of the invention, under the 35 USC 103(a) rejection of Claims 1, 17, 33, and 34 (2<sup>nd</sup> limitation).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1, 10-18, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert et al. (US 2003/0088501, hereinafter referred to as “Gilbert”), in view of Brian T. Dawson (US 2002/0042765, hereinafter referred to as “Dawson”), and further in view of David Gershon (US 2005/0027634, hereinafter referred to as “Gershon”)**

**Regarding Claims 1, 17, 33, and 34:** Gilbert discloses: A computer system comprising one or more computers on a network, the one or more computers being configured to process deal information relating to traded trades of a fungible instrument, comprising (see Gilbert: **Fig. 7**; [¶¶ 0063-0065]):

- Gilbert does not specifically disclose: A receiver configured to receive best price bid and offer rates for traded transactions in the instrument (see Gilbert: [¶¶ 0008, 0054-0055]);

However, Dawson does disclose: A receiver configured to receive best price bid and offer rates for traded transactions in the instrument (see Dawson who states that the “*receiving means may be arranged to receive from at least one source samples of trading prices offered in **actual orders**, in addition to prices quoted by other contributors*”. (See Dawson: [¶ 0024], emphasis added). Dawson further states that “[p]rices derived from **binding offers** in an automated trading system are inherently more authoritative than non binding quotes provided by various information provider” (see Dawson: [¶ 0026] emphasis added & Claim 3).

It would have been obvious to a person of ordinary skill in the art to use the traded transactions in the Gilbert system, in view of Dawson’s teaching that binding offers, which essentially are completed transactions, are more authoritative than transaction quotes; and

- A rates processor configured to derive indicative bid and offer rates from the best price bid and offer rates by defining a minimum indicative rates spread between bid and offer prices and adjusting the best price rates to maintain a spread greater or equal to the defined minimum indicative rates spread and greater than the best price spread (by setting the indicative rate

bid and offer prices to the received best bid and offer prices and by alternately adding an amount to the indicative offer rates and subtracting an amount from the indicative bid rates until the spread between the indicative bid and offer rates is greater than or equal to the predefined minimum indicative rates spread and greater than the spread between the spread between the best bid and offer prices (see Gilbert: **Fig. 5**, where step **503** shows the bids and offers postings of step **350** of **Fig. 3B**; and step **508** of **Fig. 5** determines if price is better than or equal to market price; [¶¶ 0008, 0010, 0032, 0041, 0051]. Gilbert further teaches: “*Qualified traders may be traders that are associated with the best bids and offers. The best bids and offers are bids and offers in the general market that have prices that meet predetermined criteria. The predetermined criteria may include, for example, prices that are within a predetermined range of the market price (e.g., all bids and offers that are within 0.05 of the market price qualify for being admitted into the inside market) or when the number of users joined associated with the best price is greater than or equal to a predetermined number or when the spread (e.g., difference) between the bid and offer prices is less than a predetermined difference...The inside market is similar with respect to the general market, except that only bid and offer prices that improve on the general market price will be accepted for this inside market session.*” (see Gilbert: [¶ 0010]). It should be noted that a predetermined criteria can be set at any value, while the predetermined difference (e.g., “adjusting”) can be larger than the actual spread); and

- Gilbert does not specifically disclose: A data feed for providing the indicative bid and offer rates/providing the indicative bid and offer rates in a data feed (see Gilbert: Claim 2).

However, Gershon does disclose: A data feed for providing the indicative bid and offer rates/providing the indicative bid and offer rates in a data feed (see Gershon: Abstract; [¶¶ 0034-0035, 0079, 0130-0135], where Gershon discloses that providing a too wide of a spread reduces the ability to compete in the option market (which is nothing else but a fungible instrument) and yet too narrow a spread may result in losses to the trader. Thus, Gershon's method and system provide for calculating prices to determine what bid/offer spread is appropriate so that the resultant spread is also appropriate. Thus, by ***feeding the model with real time market data, the model in conjunction with an online trading system whereby on-line transactions are executed at the prices provided by the model*** and liquidity providers, e.g., market makers and banks, may trade at the ***model prices*** instead of providing their own prices . As can be seen, Gershon teaches in **Fig. 1**, at stage **110** that the model calculates a **theoretical value (TV)**, and at stage **112**, the model calculates corrections and weights to apply to the **TV** to generate the adjusted mid-market price, also referred to herein as **corrected TV (CTV)**. In **Fig. 2C**, the bid/offer spread may be computed based on the same set of corrections along with a different set of weights, some of which may be time dependent, and in **Fig. 2D**, after computing the

bid/offer spread, the bid and the offer prices are computed, as indicated in block **70** (see Gershon: [¶¶ 0034-0036, 0057-0059, 0089, 0127-0137]).

It would have been obvious to a person of ordinary skill in the art to use the traded transactions in the Gilbert and Dawson's system, in view of Gershon's teachings in order to allow the transmission of automated bids and offers to the trading platform, as shown in Gershon's **Fig. 1** or partially machine-generated series of bids and/or offers, which provide additional depth of market in order to trade more successfully.

**Regarding Claim 10:** Gilbert, Dawson, and Gershon disclose the previous claim.

Dawson discloses: wherein the rates processor is further configured to repeat the derivation of the indicative rates if one or both of the bid and offer sides of the best prices are unavailable and are then restored (see Dawson: [¶¶ 0027, 0052, 0246-0266, 0272], where it can be arranged to discard information derived from quoted prices in favour of information derived from trading prices, subject to predetermined validation criteria, which may be such as to permit substitution by trading price information provided that it is within certain tolerance limits derived from the quoted prices. [¶ 0027] and see Gershon: [¶¶ 0145-0158])

**Regarding Claim 11:** Gilbert, Dawson, and Gershon disclose the previous claim.

Dawson discloses: wherein the one or more computers are further configured to distribute the derived indicative rates to subscribers [¶¶ 0117, 0121, 0492-0493, 0502, 0514] and see Gershon: [¶¶ 0034-0035])

**Regarding Claim 12:** Gilbert and Dawson disclose the previous claims.

Dawson does disclose: wherein the one or more computers are further configured to distribute of indicative rates comprises forming an indicative rates panel for distribution and display at the subscribers [¶¶ 0098-0099, 0107, 0117, 0492, 0502, 0514].

**Regarding Claim 13:** Gilbert, Dawson, and Gershon disclose the previous claim.

Dawson discloses: wherein the rates processor is further configured to derive a market high rate and market low rate from the best bid and offer prices and the one or more computers are configured to distribute the market high rate and market low rate to subscribers [¶¶ 0024, 0026, 0082-0083, 0092, 0097, 0101, 0105, 0117, 0165, 0173, 0175-0176, 0183-0184, 0190, 0197, 0203, 0492, 0502, 0514] and see Gershon: [¶¶ 0034-0036, 0057-0059, 0089, 0127-0137]).

**Regarding Claim 14:** Gilbert, Dawson, and Gershon disclose the previous claims.



Gilbert discloses: wherein the rates processor is further configured to derive the market high and low rates by discarding from the received best bids and offers bids and offer prices for which less than a predetermined volume has been dealt at that price between a predetermined number of counterparties over a predetermined period (**Fig. 5**; [¶¶ 0036, 0059, 0062] and see Gershon: [¶¶ 0009, 0014, 0034-0036, 0057-0059, 0089, 0127-0137]).

**Regarding Claim 15:** Gilbert, Dawson, and Gershon disclose the previous claim.

Gilbert discloses: wherein the rates processor is further configured to record absolute market high and market low rates [¶¶ 0007, 0036].

**Regarding Claim 16:** Gilbert, Dawson, and Gershon disclose the previous claims.

Gilbert discloses: wherein the one or more computers are configured to distribute the absolute market high and low rates to subscribers [¶¶ 0007, 0036].

**Regarding Claim 18:** Gilbert discloses: A computer system comprising one or more computers on a network, the one or more computers being configured to process deal information relating to traded trades of a fungible instrument, the computer system comprising (see Gilbert: **Fig. 7**; [¶¶ 0063-0065]):

- A receiver configured to receive best price bid and offer rates of traded transactions in the instrument (See Gilbert: [¶¶ 0008, 0054-0055]); and

- Gilbert does not specifically disclose: a rates processor configured to filter received best price bid and offer rates to remove high frequency fluctuations in the received rates to obtain indicative bid and offer rates, and to adjust the indicative rates only to maintain a predetermined minimum spread.

However, Dawson does disclose: a rates processor configured to filter received best price bid and offer rates to remove high frequency fluctuations in the received rates to obtain indicative bid and offer rates, and to adjust the indicative rates only to maintain a predetermined minimum spread (Abstract; [¶¶ 0020, 0023, 0027-0030, 0032, 0046, 0122, 0124, 0131, 0327, 0334, 0429]).

It would have been obvious to modify Gilbert's teachings with Dawson's teaching to derive a filtering system to remove fluctuations according to certain criteria, in order to obtain indicative rates, thereby maintaining a predetermined minimum spread (see Dawson: [¶¶ 0334, 0429]).

**8. Claims 2-4, 6-9, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert et al. (US 2003/0088501, hereinafter**

referred to as “Gilbert”), in view of Brian T. Dawson (US 2002/0042765, hereinafter referred to as “Dawson”), further in view of David Gershon (US 2005/0027634, hereinafter referred to as “Gershon”), and further in view of Silverman et al (US 5,136,501, hereinafter referred to as “Silverman”)

**Regarding Claim 2:** Gilbert, Dawson, and Gershon disclose the previous claim.

Gilbert further discloses: wherein the best price bid and offer rates are received from an automated trading system [¶¶ 0004, 0029, 0034, 0039].

In addition, Silverman is even more explicit than Gilbert and Dawson, in stating the use of an automated stock exchange, as in U.S. Pat. No. 4,412,287, in which a computer matches buy and sell orders for a variety of stocks (see Silverman: Column 1, Lines 51-56).

It would have been obvious to a person of ordinary skill in the art to fully automate Gilbert, Dawson, and Gershon's system in view of Silverman's teaching that patent 4,412,287 is an example of a known matching system.

**Regarding Claim 3:** Gilbert, Dawson, Gershon, and Silverman disclose the previous claims. Gilbert discloses: wherein the best price bid and offer rates are received from an anonymous trading system [¶¶ 0010, 0034, 0039].

**Regarding Claim 4:** Gilbert, Dawson, and Gershon disclose the previous claim.

Gilbert discloses: wherein the rates processor is further configured to set the indicative rate bid and offer prices to the received best bid and offer prices, and to alternately add an amount to the indicative offer rates and subtract an amount from the indicative bid rates until the spread between the indicative bid and offer rates is greater than or equal to the predefined minimum indicative rates spread and greater than the spread between the best bid and offer prices (see Gilbert: [¶¶ 0010, 0032, 0034, 0039]). Thus, Gilbert states that the predetermined criteria means that the value can be set as desired.

While Silverman states that: *“Preferably, in the system of the present invention, at all times the system will display the best inside price for every instrument traded on the system. The best inside price is preferably defined to be the highest value bid and the lowest value offer in the system.”* (see Silverman: Column 6, Lines 47-63; Column 13, Lines 14-55; Column 18, Lines 10-66).

It would have been obvious to a person of ordinary skill in the art to modify Gilbert, Dawson, and Gershon's teaching with Silverman's to display less than the best inside price, as it is implicit.

**Regarding Claim 6:** Gilbert, Dawson, and Gershon disclose the previous claim.

Gilbert, Dawson, and Gershon do not specifically disclose: wherein the rates processor is further configured to periodically repeat the derivation of the indicative rates.

However, Silverman does disclose: wherein the rates processor is further configured to periodically repeat the derivation of the indicative rates (Column 6, Lines 37-38). It should be noted that Silverman's "*real time*" is the same as periodically updating the information.

It would have been obvious to a person of ordinary skill in the art to modify Gilbert and Dawson's teaching with Silverman's teachings to periodically repeat the derivation of the indicative rates.

**Regarding Claim 7:** Gilbert, Dawson, and Gershon disclose the previous claim.

Gilbert further discloses: wherein the rates processor is further configured to repeat the derivation of the indicative rates if a received best bid or offer is outside the range of the indicative rates instrument (see Gilbert: [¶¶ 0008, 0010, 0032, 0034, 0039, 0054-0055]). Thus, Gilbert states that the predetermined criteria means that the value can be set as desired. While Silverman states that: "*Preferably, in the system of the present invention, at all times the system will display the best inside price for every instrument traded on the system. The best inside price is preferably defined to be the highest value bid and the lowest value offer in the system.*" (see Silverman: Column 6, Lines 47-63; Column 13, Lines 14-55; Column 18, Lines 10-66).

It would have been obvious to a person of ordinary skill in the art to modify Gilbert, Dawson, and Gershon's teachings with Silverman's teaching to repeat the derivation of the indicative rates, if a received best bid or offer is outside the

range of the indicative rates instrument, in view of Silverman's teaching that this is a preferred system.

**Regarding Claim 8:** Gilbert, Dawson, and Gershon disclose the previous claim.

Gilbert further discloses: wherein the rates processor is further configured to repeat the derivation of the indicative rates if the best prices spread widens such that the best prices are the same as the indicative rates instrument [¶¶ 0008, 0010, 0032, 0034, 0039, 0054-0055]. Thus, Gilbert states that the predetermined criteria means that the value can be set as desired. While Silverman states that: *"Preferably, in the system of the present invention, at all times the system will display the best inside price for every instrument traded on the system. The best inside price is preferably defined to be the highest value bid and the lowest value offer in the system."* (Column 6, Lines 47-63; Column 13, Lines 14-55; Column 18, Lines 10-66).

It would have been obvious to a person of ordinary skill in the art to modify Gilbert, Dawson, and Gershon's teachings with Silverman's teaching to repeat the derivation of the indicative rates, if a received best bid or offer is outside the range of the indicative rates instrument, in view of Silverman's teaching that this is a preferred system.

**Regarding Claim 9:** Gilbert, Dawson, and Gershon disclose the previous claim.

Gilbert further discloses: wherein the rates processor is further configured to repeat the derivation of the indicative rates if the best prices spread plus a predetermined amount is less than the indicative rates spread and the indicative rates spread is greater than the minimum indicative rates spread [¶¶ 0008, 0010, 0032, 0034, 0039, 0054-0055]. Thus, Gilbert states that the predetermined criteria means that the value can be set as desired. While Silverman states that: *“Preferably, in the system of the present invention, at all times the system will display the best inside price for every instrument traded on the system. The best inside price is preferably defined to be the highest value bid and the lowest value offer in the system.”* (Column 6, Lines 47-63; Column 13, Lines 14-55; Column 18, Lines 10-66).

It would have been obvious to a person of ordinary skill in the art to modify Gilbert, Dawson, and Gershon's teachings with Silverman's to repeat the derivation of the indicative rates if the best prices spread plus a predetermined amount is less than the indicative rates spread and the indicative rates spread is greater than the minimum indicative rates spread. Therefore, it is implicit that it is generally necessary to recalculate so that the “predetermined criteria” is maintained.

**Regarding Claim 19:** Gilbert and Dawson disclose the previous claim.

Gilbert discloses: wherein the rates processor is further configured to adjust indicative rates by adjusting the received best price bid and offer rates to maintain a bid/offer price spread greater or equal to a defined minimum rates

spread and greater than the best price bid and offer rates spread. [¶¶ 0010, 0032, 0034, 0039]. Thus, Gilbert states that the predetermined criteria means that the value can be set as desired.

While Silverman states that: *“Preferably, in the system of the present invention, at all times the system will display the best inside price for every instrument traded on the system. The best inside price is preferably defined to be the highest value bid and the lowest value offer in the system.”* (Column 6, Lines 47-63; Column 13, Lines 14-55; Column 18, Lines 10-66).

It would have been obvious to modify Gilbert and Dawson’s teachings with Silverman’s teaching that it is preferable to adjust the received best price bid and offer rates to maintain a bid/offer price spread greater or equal to a defined minimum rates spread and greater than the best price bid and offer rates spread.

**9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert et al. (US 2003/0088501, hereinafter referred to as “Gilbert”), in view of Brian T. Dawson (US 2002/0042765, hereinafter referred to as “Dawson”), in view of David Gershon (US 2005/0027634, hereinafter referred to as “Gershon”), in view of Silverman et al (US 5,136,501, hereinafter referred to as “Silverman”), and in further view of Togher et al. (US 6,014,627, hereinafter referred to as “Togher”)**

**Regarding Claim 5:** Gilbert, Dawson, Gershon, and Silverman disclose the previous claims.



Gilbert, Dawson, Gershon, and Silverman do not specifically disclose: wherein the amount to add or subtract is a single pip (see Gershon: **Fig. 2D**; [¶ 0137]).

However, Togher does disclose: wherein the amount to add or subtract is a single pip (see Togher: **Fig. 2**; “Pips” **24, 26** portion of the Dealable price; Column 7, Lines 6-19; Column 8, Lines 19-29; Column 10, Lines 13-28; Column 11, Lines 18-51).

It would have been obvious to a person of ordinary skill in the art to modify Gilbert, Dawson, Gershon, and Silverman's teachings in view of Togher's teaching to add or subtract a single pip.

### ***Conclusion***

**10. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Barbara Joan Amelunxen whose telephone number is (571) 270-5297. The Examiner can normally be reached on Monday-Friday -- 07:30-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. J. A./

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May 6, 2010

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694